



Debris Removal — Guidance for Local Governments



This document includes definitions, terms, processes and cautions taken from several publications. This guidance applies to all subgrantees with a Category "A" Debris Removal claim.

Procurement: General

State and federal programs allow you to procure materials and services using your own procurement procedures if they meet or exceed federal procurement standards. While it is acceptable to use your own system, you will need to ensure that your procurement system is within the state and federal program requirements.

Procurement Standards

Federal procurement standards are covered in the revised OMB Circular A-102 and 44 CFR, Part 13. These standards are applicable to any procurement expected to exceed \$25,000.

Types of Procurement

- Small purchases
- Competitive sealed bids
- Price negotiation
- Non-competitive negotiations

Small purchase procurement generally requires you to seek the best price by calling a number of vendors.

Competitive sealed bids for contracts exceeding \$25,000 require formal advertising in recognized trade journals and/or newspapers, a specific time for opening bids and the award of the contract to the lowest responsive and responsible bidder.

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Price negotiation is the request for a proposal (RFP) process, whereby you are selecting the services of the best qualified individual or firm to perform specific services or provide specific products. Cost is generally the second objective in the process. The primary concern is the qualifications of the contractor.

“The biggest procurement problem you will encounter is usually with sole source procurement.”

Non-competitive negotiation is basically a sole source procurement. Circumstances acceptable for sole source may be:

- The item is available from only one source.
- Public emergency and urgency will not permit a delay incident to competitive bidding.
- The federal or state funding agency authorizes it.
- Competition is inadequate even though you tried to competitively bid the work.

The biggest procurement problem you will encounter is usually with sole source procurement. The immediate disaster response may have forced you to use sole source procurement, but you must document why you used this method and how you negotiated the price.

Contracting Causation

Two major problems normally occur when you award contracts for disaster-related work:

- You will award one contract covering several sites; and /or
- You will forget to require the contractor to segregate costs on the invoices by Site or Damage Survey Report (DSR) for work performed.

The result may be that the Federal Emergency Management Agency (FEMA) and you will have to pro-rate the contractor's cost to each DSR site. As you can see, this can be arbitrary and could cost you funds if there are allocations to ineligible sites.

Illegal Types of Contracts

- Cost Plus a percentage of Cost Contract (This type of contract is prohibited by FEMA)—This type of contracting method is not acceptable because there is no incentive for the contractor to hold down the costs. In fact, the higher the costs, the bigger the profit a contractor will make.
- Contingency Contracts (This type of contract is prohibited by FEMA)—Never contract "on the condition" that payment will be made from state or federal funds.

Legal Types of Contracts

- Time and Materials Contract—These types of contracts are sometimes used immediately after the disaster has occurred. Since no one knows what might be at a certain site, the

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contractor may request a time and materials (TM) contract to perform directed work.

The TM contract is acceptable if you carefully document that the contractor expended the time and materials on eligible work and you put a cost ceiling on the contract to prevent the contractor from running up the costs.

- Negotiated Contracts—It is imperative that you document how you arrived at a contract price. This is easy if you use the RFP or competitive bid processes. This is not so easy if you are procuring emergency contract services without formal bidding.
- Lump Sum—For all work within a prescribed boundary with clearly defined scope of work with a total contract price.
- Unit Price—For all work done on a defined base (i.e., ton, cubic yard, or item by item).

Contract Selection

It is suggested that of the four types described, only two types of contracts should be considered for debris operations. These are lump sum and unit price.

Contract Execution

Execution of any/all debris should be in conformance with state and local practices and legal requirements.

Contract Administration

Those activities required of a political subdivision after the contract award include:

- Monitoring of Performance
- Inspections
- Possible Contract Modification
- Acceptance of Work for Payment
- Contract Close-out

Project Administration

If the unit price method is selected, detailed management of the conditions of the contract is essential. On-site management and inspection of all operations is an obligation of the subgrantees using a unit price method.

Inspectors must be familiar with provisions of the contract.



“Have DEM review the scope of work on bid documents and contracts.”

A subgrantee staff member or special hire should be designated as debris manager. The debris manager is responsible for controlling all aspects of the contract.

Debarred Contractors

You are prohibited from contracting with debarred contractors. You may obtain a list of federally debarred contractors from the Division of Emergency Management (DEM) or FEMA.

Other Issues You May Want to Consider

Federal program regulations require contractors to be bonded. Contractors must have a payment bond and a faithful performance bond. Bonding protects you from failures by the contractor to perform.

Your state may have licensing requirements for contractors and subcontractors. If you have any questions about this, ask to see your contractor's license. You can also contact your state's Department of Professional Regulation or the equivalent.

Larger and more widespread disasters may cause a temporary shortage of qualified contractors, and some contractors may try to increase prices to take advantage of the disaster situation.

Contract with a contractor who has the expertise to do the type of work needed. For example, a plumbing contractor may not have the expertise and equipment to perform major structural repairs.

FEMA will reimburse costs of additional hiring of debris site inspectors as required. Hiring shall be linked to specific DSRs.

The subgrantee and contractor should define the rights-of-way and determine if entry onto private property is required. The subgrantee must formulate legal procedures for indemnification and damage due to negligence with a right-of-way entry permit.

If a subgrantee uses a consultant for debris removal management, the consultant is required to submit their proposed debris management plan for FEMA/state review.

Contract(s) Review

Have DEM review the scope of work on bid documents and contracts. This will assist you in ensuring that eligible work is properly identified, and if other work is involved, eligible costs can

be properly determined. The State Coordinating Office at the Disaster Field Office should be contacted.

Expanded Guidance—Lump Sum and Unit Price Contracts

The development of a unit price includes many variables. Factors that influence the unit costs are:

- Types of debris
- Method of removal
- Distance to the disposal site
- Routes to the disposal site
- Permitting requirements
- Work-site limitations
- Restoration of storage and/or reduction site

“The lump sum contract should be used only when the scope of work is clearly defined and the areas of work can be specifically quantified.”

In their cost estimate, inspectors should address all items to be included in the scope of work. These items will include the actual work that may be required to accomplish the specific tasks. For example, if a damaged building is located next to a main water line serving the city, an indirect cost of the project would be protection of the line while the building is being demolished.

The individual performing the cost estimate must put himself in the place of the contractor who is being asked to submit a price for the work. This is very important in a disaster situation where there may be a variety of factors that will affect the contractor's pricing. After the cost estimate is prepared, the scope of the project can be defined and the best type of contract selected.

Contract Selection and Execution

Two types of contracts should be considered for most debris removal operations. These contracts are lump sum and unit price.

Lump Sum Contract

A lump sum contract is used for all work within prescribed boundaries or for building demolition contracts where the scope of work can be clearly defined. The lump sum contract establishes a total contract price by a one item bid from a contractor. It is understood in a lump sum contract that the price for the work is fixed unless there is a change in the scope of work to be performed; therefore, the bottom line of the contract is not in question as it might be with the unit price contract. The specific advantages of the lump sum contract are:

- It establishes the cost of the work at the time of bid opening
- It is easy to monitor since the scope of work is well defined
- It is easy to tell when a contractor has completed all the work

One disadvantage of the lump sum contract is that if the scope of work does not include a quantity estimate, then the quantity estimate becomes the responsibility of the contractor bidding the project. Experience has shown that the contractor will pass this burden back to the government in the form of contingencies which will be incorporated in the bid price. Therefore, the lump sum contract should be used only when the scope of work is clearly defined and the areas of work can be specifically quantified.



Unit Price Contract

A unit price contract is used in those situations where the scope of work to be performed is reasonably large and exact measurement of the total work is difficult to define.

The unit price contract uses construction units and prices for these units to develop line item costs and total contract cost.

The unit price contract is used when the scope of work can be defined and generally quantified by actual field measure (e.g., 200 CY (cubic yards) of sand, 10 tons of debris, 17 trees, etc.)



It should be noted that the total "bottom line" of the contract may increase or decrease depending upon the accuracy of the unit quantity. For this reason, it is as important to properly estimate units as it is to estimate unit cost. Change orders to adjust the estimated bid quantity to the quantity actually accomplished in the field may be issued during or at the end of the contract.

The advantage of the unit price contract is that the scope of work can be easily increased or decreased due to the fact that unit pricing for the work accomplished is established at the time of the bidding process. The contract also provides line items for the contractor to express all charges associated with the work, and therefore takes the "guesswork" out of the contractor's bidding procedure. The unit used in the unit price contracts must be as accurately estimated as possible, otherwise the final bottom line amount of the contract will be significantly different than the contract bid received at the bid opening.

Debris Project Administration

Proper and efficient management of a temporary staging and reduction site or disposal site (landfill) is essential when unit price

contracts are being utilized. The temporary staging and reduction site or the disposal site becomes the primary point for quantity verification utilized for payment.

Well-organized and managed inspection stations should be established at the entrance of the site. When the contract unit of measurement is based on weight, provisions should be made for weighing trucks as they enter and exit the site. If the contract unit of measurement is the CY, inspection stands should be built for the inspection of loaded trucks. Payment under a unit price contract is normally made on the basis of load tickets. It is recommended that the following procedures be followed when utilizing load tickets:

“Continuous monitoring of all activities of a contractor promotes satisfactory performance.”

It is important that all inspectors read and become familiar with the technical provisions of the contract. Inspectors should conscientiously estimate each load hauled by the contractor. Improper estimates can lead to large and unnecessary government expenditures. If loads (to be measured in CY) are not properly loaded or compacted, inspectors should reduce the rated volume of the truck accordingly. Inspectors should always be fair and consistent in dealing with contract personnel.

It is recommended that a local government staff member or special hire be designated as the temporary staging and reduction site and/or disposal site manager. The site manager should serve as the overall supervisor of the site inspection operation and should coordinate dumping efforts with the temporary site/landfill owners or operators. The site manager should serve as the initial arbitrator for differences in opinion between gate inspector(s) and a contractor's representative.

Debris Contract Administration

This term generally encompasses all activities that should take place after a contract is awarded and performance begins. Contract administration ensures that the contract is performed as agreed. The major elements of administration include the following:

- Monitoring of Performance—Continuous monitoring of all contractor activities promotes satisfactory performance. In evaluating a contractor's performance, primary interest is in the progress toward completion of the services called for and the financial status of the contract. The contract should provide for submission of periodic reports and payment estimates in order to aid in evaluating the contractor's work progress. In addition to progress reports, frequent visits to the job sites can be a productive method of monitoring performance.



“The contract is not administratively complete until all actions taken in compliance with the contract have been properly documented and final payment is made.”

- Contract Modification—During the administration of the contract, modifications may be necessary to incorporate new requirements in order to provide contractual coverage for situations that develop after the award of a contract. All modifications should be in writing in order to protect the interests of both parties. The contract should contain a clause which permits the contracting officer to make changes unilaterally within the scope of the contract, subject to an equitable adjustment of the contract price.
- Inspection—Local governments should maintain an inspection and control system under their own supervision to ensure that the work being performed complies with the terms of the contract. In addition to load ticketing, the inspection and control process should consider the following factors:
 - Bond requirements
 - State licensing requirements
 - Insurance requirements
 - Rights-of-way and hold harmless indemnification
 - Mobilization of proper and adequate equipment
 - Posting of permits and warnings
 - Contractor personnel safety standards
 - General public safety standards
 - Completion schedules and reports
 - Site restoration and clearance procedures
 - Demobilization procedures
- Acceptance and Payment—Final inspection and the method of interim and final payments are part of the general conditions of the contract and should be set forth in the original specification or other contract documents.

Subgrantees should accept for payment completed work that has been verified through the inspection process as performed in accordance with the standards stipulated in the contract.

If the contract period is less than one calendar month, normal payment should be made in one total sum. If the authorized work tenure exceeds a period of one month, provisions can be made to progress payments to the contractor.

- Closing Out of Contracts—A contract is complete when all of the services or items called for have been delivered or performed and accepted. The contract is not administratively complete until all actions taken in compliance with the contract have been properly documented and final payment is made.